

HIM IN THE COURSE OF THE CLOSING TRANSACTION WITHIN FIVE DAYS FROM THE DATE OF THE DELIVERY OF ANY DEED GRANTING TITLE TO THE PROPERTY.

(6) PAYMENT OF COST OF REPRODUCING AND MAILING RELEASE. THE VENDOR SHALL BEAR THE COST OF REPRODUCING AND MAILING A RECORDED RELEASE UNDER THIS SECTION UNLESS THE PARTIES OTHERWISE AGREE.

(C) PROCEDURE FOR RELEASE OF CERTAIN MORTGAGES OR DEEDS OF TRUST.

(1) WHERE THERE IS A MORTGAGE OR DEED OF TRUST WHICH REMAINS UNRELEASED OF RECORD, THE MORTGAGOR OR GRANTOR IS ENTITLED TO [[HAVE IT RELEASED]] A PRESUMPTION THAT IT HAS BEEN PAID IF: (i) 20 YEARS HAVE ELAPSED SINCE THE LAST PAYMENT DATE CALLED FOR IN THE INSTRUMENT OR THE MATURITY DATE AS SET FORTH IN THE INSTRUMENT; OR (ii) 40 YEARS HAVE ELAPSED SINCE THE DATE OF RECORD OF THE INSTRUMENT IF THE DATE OF LAST PAYMENT CALLED FOR IN THE INSTRUMENT CANNOT BE ASCERTAINED FROM THE RECORD.

(2) THE RIGHT TO RELEASE OF A MORTGAGE OR DEED OF TRUST SHALL BE ENFORCED BY A BILL IN EQUITY, IF THE PRESUMPTION OF PAYMENT IS NOT REBUTTED. ALL PARTIES TO THE INSTRUMENT INCLUDING THE MORTGAGEE, TRUSTEE IN A DEED OF TRUST, OR ANY PARTY NAMED IN THE INSTRUMENT SHALL BE MADE PARTIES TO THE BILL AND SERVED OR SUMMONED WITH NOTICE AS IN OTHER EQUITY CASES. IF THE COURT FINDS THE PETITIONER HAS A RIGHT TO RELEASE, THE CLERK SHALL RECORD THE RELEASE PURSUANT TO THE PROCEDURE SET FORTH IN §3-105(B) AND (C) RELATING TO THE CLERK'S DUTY TO RECORD RELEASES

(3) RECORDATION BY THE CLERK OPERATES AS A RELEASE OF THE MORTGAGE OR DEED OF TRUST.

REVISOR'S NOTE: This section presently appears as Art. 21, §7-106 of the Code. In subsection (b), the phrase "furnish" is proposed for deletion as ambiguous and "mail or deliver" is added to clarify the legislative intent and to be consistent with other provisions of this Art. In subsection (b) (2), (4), and (5), the present reference to "real" property is proposed for deletion in light of the definition of "property" in §1-101(k).

The Commission proposes that subsection (b) (7) be deleted because business and commercial organizations subject to Art. 49, §7 are often as unsophisticated as consumers in their affairs and deserve protection equal to that